

UNAPPROVED
BOARD OF PHYSICAL THERAPY MEETING MINUTES

The Virginia Board of Physical Therapy convened for a Board meeting on Tuesday, May 1, 2018, at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room #2, Henrico, Virginia.

BOARD MEMBERS PRESENT:

Allen R. Jones, Jr., PT, DPT, President
Arkena Dailey, PT, DPT, Vice President
Sarah Schmidt, PTA
Tracey Adler, PT, DPT
Elizabeth Locke, PT, PhD
Mira Mariano, PT, PhD
Susan Palmer, MLS, Citizen Member

DHP STAFF PRESENT FOR ALL OR PART OF THE MEETING:

Corie Tillman Wolf, JD, Executive Director
Lynne Helmick, Deputy Executive Director
Laura Mueller, Program Manager
David Brown, DC, Agency Director
Barbara Allison Bryan, Chief Deputy Director
Elaine Yeatts, Senior Policy Analyst

BOARD COUNSEL PRESENT:

Erin Barrett, Assistant Attorney General

QUORUM:

With 7 members present, a quorum was established.

GUESTS PRESENT

Richard Grossman, VPTA
Janet Borges, L.Ac.
Matthew Stanley

CALL TO ORDER

Dr. Allen R. Jones, Jr., called the meeting to order at 9:30 a.m. and asked the Board members and staff to introduce themselves.

Dr. Jones provided reminders to the Board members and audience regarding microphones, sign in sheets, computer agenda materials, and breaks.

Ms. Tillman Wolf read the Emergency Egress Procedures.

ACCEPTANCE OF MINUTES:

Dr. Locke brought attention to a typographical error on the minutes of the Board meeting from February 13, 2018. She stated that the beginning of the first sentence under Open Meeting (last page of minutes) should read, “Dr. Locke moved.”

Ms. Tillman Wolf noted a minor formatting change to the minutes for the Legislative/Regulatory Committee meeting.

Upon a motion by Dr. Locke, and properly seconded by Dr. Adler, the Board voted to accept the following meeting minutes as revised and as presented:

- Board Meeting – February 13, 2018
- Formal Hearing – February 13, 2018
- Legislative/Regulatory Committee – April 10, 2018

ORDERING OF AGENDA:

There were no changes to the proposed ordering of the agenda.

AGENCY DIRECTOR’S REPORT – David Brown, DC

Dr. Brown reported on the personnel changes within the Secretariat of Health and Human Resources. He stated that Daniel Carey, MD, was appointed Secretary. His two deputies are Gena Boyle Berger and Marvin Figueroa. Dr. Hughes Melton left the Virginia Department of Health to become the Commissioner of the Virginia Department of Behavioral Health and Developmental Services. Barbara Allison Bryan, MD, was appointed Chief Deputy Director at DHP.

Dr. Brown described the move of DHP’s Reception and IT departments to the first floor of the building.

Dr. Brown explained that the Board of Pharmacy has been overseeing the development of licensure for the pharmacological processors of cannabinoid oils. The General Assembly passed bills this session that expand the use of these oils from the treatment of intractable epilepsy to any patient with a physician’s written certification.

Regarding the opioid crisis, Dr. Brown reported that the state is seeing a decline in opioid prescriptions. He stated that one contributor to the decline may be the Board of Medicine’s regulation change that encourages doctors to attempt non-pharmacological methods to relieve pain. Dr. Brown further stated that he anticipates that the results of the DHP-convened workgroups that made recommendations on core competencies for opioid education in schools for the health professions will be announced at some point in the future.

Dr. Allison Bryan introduced herself. She presented her background as a pediatrician and a member of the Board of Medicine and Board of Health Professions.

In follow-up comments regarding the opioid crisis, Dr. Adler expressed concerns regarding the patients who are cut off from opioid prescriptions and the physicians who are not assisting these patients with detox or tapering off medications. Dr. Brown stated that this presents an opportunity for education and communication by physical therapists with physicians regarding how to deal with “orphaned” patients. Dr. Jones echoed the role of physical therapists at the forefront of educating patients.

With no further questions or comments, Dr. Brown concluded his report.

PUBLIC COMMENT:

There was no public comment.

LIABILITY COVERAGE FOR BOARD MEMBERS – Don LeMond, Director of the Division of Risk Management, Department of the Treasury

Mr. LeMond reported that his office manages several insurance programs for the Commonwealth, which includes insuring all the property of the government, legal defense and payments for claims and judgments, providing medical malpractice insurance to free clinics and state hospitals, and insurance for Constitutional officers and the railroad commission. He stated that board members of Virginia’s agencies also are covered by the Division of Risk Management.

Mr. LeMond stated that if an employee or board member is sued because of their work for the Commonwealth, the employee/board member should contact Risk Management, which will work the Attorney General’s office. There is \$2 million per occurrence coverage for board members.

Board Counsel, Erin Barrett, reminded Board Members that if they are sued in their official or individual capacity for their work as board members, they should contact Board staff who will then bring this to her attention. The Attorney General’s office would notify Risk Management. Board members are covered after they leave the Board as well.

STAFF REPORTS:

Executive Director’s Report – Corie Tillman Wolf, Executive Director

Ms. Tillman Wolf began her report with the Expenditure and Revenue Summary.

Cash Balance as of June 30, 2017	\$ 1,457,317
YTD FY18 Revenue	\$ 138,040
<u>Less YTD Direct & In-Direct Expenditures</u>	<u>\$ 429,682</u>
Cash Balance as of March 31, 2018	\$ 1,165,674

Ms. Tillman Wolf provided the following updates from FSBPT:

- The Regulatory Training for Board Members will be held June 8-11, 2018, in Alexandria, VA. The Annual Meeting will be held on October 25-27, 2018 in Reston, VA. The applications for Excellence in Regulation Awards are due June 1, 2018.
- There will be changes to the FSBPT exam eligibility requirements for the October 2018 examination. In order to be permitted to sit for the exam, graduates of non-CAPTE approved programs, where the courses were not taught in English or the applicant's native language is not English, will be required to show proof of TOEFL completion and proof of educational equivalence. This is an eligibility requirement of FSBPT independent of the Board's requirements.
- Iowa and Nebraska were the 16th and 17th states to adopt the PT Compact.
- A total of 1,108 Virginia licensees are currently registered for aPTitude. That is up from 988 in September 2017. This is equal to roughly 10% of the licensees.

Ms. Tillman Wolf reviewed the 2018 strategic plan for the Board. She reported that the Sanctioning Reference Points were finalized and implemented, the review and update of Guidance Documents will be completed today, and the dissemination of information to licensees and applicants through newsletters, email blasts, updates to website and presentation is ongoing.

Ms. Tillman Wolf provided the following information on Licensing:

CURRENT LICENSURE STATISTICS

License	April 27, 2018	Q2 FY 2018	Change +/-
Physical Therapist	8,342	8,144	198
Physical Therapist Assistant	3,460	3,407	53
Total PT's and PTA's	11,802	11,551	251
Direct Access Certification	1,196	1,184	12

Ms. Tillman Wolf reported the following:

- The PTA examination on April 4, 2018 resulted in a 84.7% pass/15.2% fail rate.
- The customer satisfaction survey results continue to be strong:
 - Q3 17 – 100%
 - Q4 17 – 98.9%
 - Q1 18 – 97.3%
 - Q2 18 – 100%
 - Q3 18 – 86.8%
- FSBPT surveys exam candidates regarding their satisfaction with processing of their applications: “How satisfied were you with the processing of your application by state in which you applied for licensure?” A survey was completed by 3,492 examination candidates between January and March, 2018. 96.1% of Virginia applicants were satisfied with the Virginia application process. The average satisfaction rate for all states was 86.7%.

With no further questions, Ms. Tillman Wolf concluded her report.

Discipline Report – Lynne Helmick, Deputy Executive Director

Ms. Helmick reported on the current number of open cases, discipline statistics, and Key Performance Measures. Ms. Helmick clarified the FY2018 Q1 statistics, as the statistics presented at February's meeting were discovered to be incorrect.

- 50 Total Cases
 - 1 in APD
 - 1 in Formal
 - 14 in Investigation
 - 34 in Probable Cause
 - 6 Compliance cases
- Virginia Performs Q1 FY2018
 - Clearance Rate – at 267% The Board received 3 patient care cases and closed 8 cases.
 - Pending Caseload over 250 days at 25% is over the 20% goal. That represents 5 cases.
 - Cases closed within 250 days was at 88%. The goal is 90%.
- Virginia Performs Q2 FY2018
 - Clearance Rate – at 25% The Board received 8 patient care cases and closed 2 cases.
 - Pending Caseload over 250 days at 35% is over the 20% goal. That represents 9 cases.
 - Cases closed within 250 days was at 100%. The goal is 90%.

Ms. Helmick reported that the all cases closed in Q3-2018 were closed within one year and the average number of days to close a case was 152.5, which was below the agency average.

With no further questions, Ms. Helmick concluded her report.

Break

Dr. Jones called for a break at 10:33 a.m. The Board meeting reconvened at 10:39 a.m.

BOARD AND COMMITTEE REPORTS:

Board of Health Professions Report – Allen R. Jones, Jr., PT, DPT

Dr. Jones reported the Board of Health Professions (BHP) had a presentation on the Health Practitioners Monitoring Program (HPMP) at their last meeting on February 27, 2018. Dr. Jones referred the Board to the draft BHP meeting minutes contained in the agenda for further information on the meeting.

Upon a motion by Dr. Dailey duly seconded by Ms. Schmidt, the Board accepted Dr. Jones' report.

Legislative/Regulatory Committee - Sarah Schmidt, PTA, MPH, Committee Chair

Ms. Schmidt reported the Committee discussed three questions from licensees. The answer to a question regarding school-based PT and services to students with 504 plans was incorporated into Guidance Document (GD) 112-7. The answer to a question regarding supervision of PT and PTA students in clinical settings was incorporated into GD 112-20. The answer to a question regarding performance of certain tasks or treatments in a home health setting was incorporated into GD 112-12. The Committee did not address PRP injections as invasive procedures are covered under current statutes and regulations and the Committee wanted to avoid going down the road of analyzing every procedure.

Ms. Schmidt reported that the Committee recommends revisions to the Direct Access Patient Attestation and Medical Release form. Upon a motion by Ms. Schmidt, duly seconded by Dr. Adler, the Board adopted the revised form. The vote was unanimous.

Ms. Schmidt presented the Committee's recommendation to repeal the following Guidance Documents:

- 112-3 Board Guidance for Conduct of an Informal Conference by an Agency Subordinate
- 112-5 Board Guidance on Acceptance of TOEFL iBT as equivalent to TOEFL and TSE examinations
- 112-6 Board Guidance on Licensure of Kinesiotherapists as Physical Therapists
- 112-8 Board Guidance on Review of Non-Routine Applications from Non-Approved Schools

Ms. Schmidt presented the Committee's recommendation to readopt the following Guidance Documents:

- 112-4 Board Guidance on Requirement for Licensure for Instructors in a Physical Therapy Program
- 112-14 Electromyography (EMG) and Sharp Debridement in Practice of Physical Therapy. Ms. Yeatts proposed a revision to the language related to the listing of health practitioners who may make referrals to reflect the actual statutory language.
- 112-15 Supervision of Unlicensed Support Personnel in any Setting
- 112-16 Guidance on the Use of Your Professional Degree in Conjunction with Your Licensure Designation
- 112-20 Guidance on Supervision Students in Non-Approved Programs

Ms. Schmidt presented the Committee's recommendation to revise the following Guidance Documents:

- 112-7 Board Guidance on Physical Therapists and Individualized Educational Plans in Public Schools
- 112-10 Board Guidance on credit for Continuing Education
- 112-11 Board Guidance on Functional Capacity Evaluations
- 112-12 Physical Therapy services in Home Health

- 112-18 Disposition of Disciplinary Cases for Practicing on Expired Licenses
- 112-19 Physical Therapists Performance of the Prothrombin Time and International Normalize Ration (INR) tests in Home Health Settings

Ms. Schmidt presented the Committee's recommendation that the Board adopt a new Guidance Document 112-24, Board Guidance for Supervision of Physical Therapy Students in Clinical Settings.

Upon a motion by Dr. Locke, duly seconded by Dr. Adler, the Board voted to repeal Guidance Documents 112-3, 112-5, 112-6, and 112-8 as presented.

Upon a motion by Ms. Schmidt, duly seconded by Ms. Palmer, the Board voted to readopt Guidance Documents 112-4, 112-15, 112-16, and 112-20 as presented.

Upon a motion from Dr. Dailey, duly seconded by Ms. Schmidt, the Board voted to revise Guidance Document 112-14 with the revisions presented by Ms. Yeatts.

Upon a motion from Ms. Schmidt, duly seconded by Dr. Dailey, the Board voted to revise Guidance Documents 112-7, 112-10, 112-11, 112-12, 112-18, and 112-19 as presented.

Upon a motion by Dr. Locke, duly seconded by Ms. Schmidt, the Board adopted new Guidance Document 112-24 as presented.

The votes were unanimous.

LEGISLATION AND REGULATORY ACTIONS – Elaine Yeatts, DHP Senior Policy Analyst

Ms. Yeatts presented a report on the 2018 General Assembly session. She stated that HB 793 passed that would allow many nurse practitioners to practice autonomously without a practice agreement if they meet certain requirements. This legislation takes effect July 1, 2018, but the Boards of Nursing and Medicine must enact emergency regulations before it is implemented.

Ms. Yeatts reported that the Board's pending regulatory actions on dry needling and continuing education for attendance of Board meetings are at the Secretary's Office.

BOARD ACTION AND DISCUSSION

Consideration of the Physical Therapy Licensure Compact and Legislation for 2019

Administrative and Budget Considerations – Corie E. Tillman Wolf

Ms. Tillman Wolf gave a presentation on PT Licensure Compact status and impact to the Board should Virginia choose to become a member of the Compact. Currently, there are 17 states that have enacted Compact legislation.

Ms. Tillman Wolf presented information on licensee statistics and estimates of the potential impact on the Board if Virginia becomes a member of the Compact.

- 20.3% of total licensees holding a VA PT/PTA license reside (or have address of record) outside of VA (2,369/11,664)
 - Of these, 41.4% of licensees holding a VA license live in the 6 neighboring states (982/2,369)
 - Of licensees in neighboring states, 41.1% reside in 3 current compact states (NC, TN, KY) (404/982)
- Using current renewal fees, Ms. Tillman Wolf provided an estimate of potential loss of active renewal fees and inactive renewal fees for licensees that reside in the six neighboring states, three of which are Compact states. Ms. Tillman Wolf reiterated that the larger estimates were “guesstimates,” as there are assumptions made about what actions licensees may take.
- If the Board charged a fee for each Compact Privilege (CP), the loss in renewal fees could be offset by the CP revenue. Ms. Tillman Wolf provided placeholder CP fee estimates of \$15 for PTAs and \$30 for PTs to demonstrate the offset.
- Regarding endorsement applicants, and based upon 2017 data, Ms. Tillman Wolf provided an estimate of the loss of fees from these applications over a two-year basis. The Compact could eliminate a substantial amount of endorsement income, because licensees from other states could obtain the CP rather than a Virginia license. The total impact is unclear because the assumption made for a “worst-case scenario” is based upon the loss of endorsement income for all applicants, not just those in Compact states. The losses from endorsement application fees could also be offset by CP revenue.

Using the data presented, Ms. Tillman Wolf provided a summary of a potential fee impact on the Board. Ms. Tillman Wolf reiterated that the summary presented a “worst-case scenario” in that it assumed the loss of all revenue from endorsement applications, as well as losses from renewal and inactive fees from all individuals living in neighboring states.

Summary of Potential Fee Impact

Estimated Biennial Compact Participation Fee	\$0
Estimated loss on biennial endorsement application fees**	(\$98,920)
Estimated loss in biennial renewal fees*	(\$107,875)
Estimated loss in inactive renewal fees*	(\$3,605)
Estimated gain in privilege to practice fees for those non-renewing*	\$23,835
Estimated gain in privilege to practice fees new Commission applications*	\$3,090
Estimated gain in privilege to practice fees due to alternative to full Endorsement applications**	\$20,310
Total estimated net biennial fiscal impact	\$(163,165)

Ms. Tillman Wolf further discussed data provided by FSBPT regarding Virginia licensees who reside in Compact states, or who hold licensure in other Compact states.

- 11,347 individuals with active VA licenses
 - 3,635 of these individuals have mailing addresses outside of VA (non-resident).
 - Of non-resident individuals, 928 are licensed in Compact states.
 - 3,450 of these individuals are VA residents, but also have active license(s) in state(s) other than VA.
 - Of VA residents with other state licenses, 988 are licensed in at least one Compact state.
- Using this FSBPT data, Virginia could look to losing renewal fees for non-residents who are licensed in Compact states (up to loss of 928 renewals), which could result in a biennial loss of between \$65,000-\$120,640 just in renewal fees
- For VA residents with other state licenses, VA would be their presumptive home state, so Virginia would likely continue to collect these renewal fees.

Ms. Tillman Wolf provided an overview of the areas where policies and procedures would need to be implemented for Compact participation:

- Criminal Background Check (CBC)
- Transmission of data
- Issuance of Licenses
- Disciplinary cases and sharing “investigative information”
- Regulatory changes – fees, regulations, guidance documents
- Board/public information
- PT Compact Commission participation

Ms. Tillman Wolf provided the following timeline for implementation:

- May 2018 - Board decision whether to pursue legislation
- May – Aug. 2018 - Vet proposed language with stakeholders and interested agencies (e.g. Virginia State Police)
- August 2018 - Legislative proposal due to Secretary/Governor’s Office for consideration
- Late 2018 - Notification by Governor’s Office; Patron selection; DLS for bill drafting
- January-February 2019 - General Assembly Session
- July 1, 2019 - Likely enactment date (if passed)
- Mid-late 2019
 - Attend Compact Commission meeting(s)
 - Implementation of policies, procedures by Board staff
 - Review and initiate changes to regulations, Guidance Documents, By-laws, as necessary, to effectuate Compact
- January 1, 2020 - Required enactment date for Criminal Background Check (CBC)

With no further questions, Ms. Tillman Wolf concluded her presentation.

Upon a motion by Dr. Locke, duly seconded by Dr. Dailey, the Board voted to pursue legislation to enact the Physical Therapy Licensure Compact. The motion passed unanimously.

Break

Dr. Jones called for a lunch break at 12:40 p.m. The Board meeting reconvened at 1:07 p.m.

BOARD ACTION AND DISCUSSION (continued)

Consideration of FSBPT Alternate Approval Process

Board members discussed the possible implementation of the FSBPT Alternate Approval Process for exam eligibility determinations.

Upon a motion by Dr. Dailey, duly seconded by Dr. Adler, the Board voted to table the Alternate Approval Process. The vote was unanimous.

NEXT MEETING

The Board's next meeting is scheduled for August 16, 2018.

ADJOURNMENT

The meeting was adjourned at 1:18 p.m.

Allen R. Jones, Jr., PT, DPT, Chair

Corie E. Tillman Wolf, J.D., Executive Director

Date

Date